



**CITY DEVELOPMENT DEPARTMENT-PLANNING
ZONING BOARD OF ADJUSTMENT MEETING MINUTES
COUNCIL CHAMBERS, CITY HALL BUILDING
OCTOBER 14, 2013
1:30 P.M.**

Chairman Concha called the meeting to order at 1:35 p.m.

The following Board Members answered roll call:

Mr. Robert Concha, Jr., Chairman
Mr. Robert Garland, Vice Chairman
Mr. Michael Bray
Ms. Margaret L. Livingston
Mr. Sam Barela
Mr. Rick Cordova
Mr. Jeff Gonzalez
Mr. Lamar Skarda

The following City Staff were present:

Mr. Andrew Salloum, City Development Department, Planner
Ms. Martha Macias, Municipal Clerk's Office, Sign Language Interpreter
Mr. Tony De La Cruz, City Development Department, Plan Review, Senior Plans Examiner
Mr. Alex Hoffman, City Development Department, Planning, Lead Planner
Ms. Karla Nieman, City Attorney's Office, Assistant City Attorney

CHANGES TO THE AGENDA

There were no changes.

ITEM 1:

PZBA13-00030 9711 Thygerson Lane George Jr. & Aurora Avedician
Applicants request a Special Exception under Section 2.16.050 J (Carport over a Driveway) in an RMH (Residential Mobile Home) zone. This would allow the construction of a 16' by 22' carport proposed to extend within 3' of the front property line. There is no required cumulative front and rear yard setback total in the RMH zone district.

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The applicants are requesting to build a carport over the driveway that will match the house in design and materials. There is a 10' utility easement at the front property line. Building Permits & Inspections reviewed the structural plans and found them to be deficient due to over spanned beams throughout the structure. *Should the special exception be granted, corrected plans will be required before the issuance of permits.*

STAFF RECOMMENDATION IS FOR APPROVAL WITH A CONDITION: ACCEPTANCE OF STRUCTURAL DESIGNS BY THE BUILDING PERMITS AND INSPECTIONS DIVISION.

Mr. Andrew Salloum gave a presentation with Ms. Martha Macias providing sign language interpretation. *Staff did not receive any phone calls, letters, or emails in favor of or opposition to the request.*

Mr. George and Aurora Avedician, Jr., property owners, were present.

Mr. Skarda asked did Building Permits & Inspections Staff accept the structural design plans.

To his knowledge, Mr. De La Cruz responded Building Permits & Inspections Staff had not received the structural drawings, as of today.

Mr. Bray clarified Board Members could approve the request subject to the acceptance of the design.

Chairman Concha asked if anyone in the audience wished to speak in favor of or opposition to the request. *There was no response.*

MOTION:

Motion made by Mr. Bray, seconded by Mr. Cordova AND UNANIMOUSLY CARRIED TO APPROVE STAFF RECOMMENDATION, APPROVAL WITH THE CONDITION OF THE ACCEPTANCE OF THE STRUCTURAL DESIGNS BY THE BUILDING PERMITS AND INSPECTIONS DIVISION.

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ITEM 2:

PZBA13-00031

815 Rim Road

Norman G. Haddad

Applicant requests a Special Exception under Section 2.16.050 B (Two or More Non-Conforming Lots) in an R-3/NCO (Residential/Neighborhood Conservancy Overlay) zone. This would allow a 23' x 22.5' single-story garage addition, totaling 517.5 sq. ft., to encroach to within zero feet of the side lot line. The required side yard setback in the R-3/NCO zone district is 5 feet. The applicant applied for and was denied a variance to permit a two-story addition to the existing accessory garage building on July 9, 2007 (ZBA07-00099). Two-story accessory dwelling units are prohibited under our current code and the applicant failed to demonstrate the economic or topographic necessity to warrant a variance. The City Review Committee, which reviews all construction in NCO overlay districts, approved the architectural elements of the proposed construction on September 23, 2013 (PLRG13-00004). The adjoining property at 811 Rim, constructed in 1929, includes a two story detached garage 0' on the side lot line. Furthermore, the property at 711 Rim, constructed in 1939, also features a detached garage 0' on the side lot line.

**STAFF RECOMMENDATION IS FOR APPROVAL WITH CONDITIONS:
THE WALL ON THE ZERO SIDE SETBACK SHALL BE FIRE-RATED AND
STORM WATER SHALL BE HANDLED ON THE APPLICANT'S PROPERTY.**

Mr. Andrew Salloum gave a presentation with Ms. Martha Macias providing sign language interpretation. *Staff received one phone call in support of the request.*

Chairman Concha asked if anyone in the audience wished to speak in favor of or opposition to the request. *There was no response.*

Mr. Norman Haddad, property owner, and Mr. James Lyle, 811 Rim Road, were present. Mr. Lyle explained he would be assisting Mr. Haddad as Mr. Haddad has difficulty hearing.

FOR THE RECORD

For the record, Mr. Haddad submitted a letter, in support of the request, from Mr. Charles A. Kohlhas, property owner, 821 Rim Road. (letter on file)

Mr. Lyle noted Staff should have also received a phone call, in support of the request, from Mr. Don Luciano. Mr. Luciano resides directly behind Mr. Lyle on Blacker Avenue. Mr. Luciano authorized Mr. Lyle to deliver his endorsement to the Board.

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Mr. Haddad clarified he was requesting a waiver of the 5' side yard setback requirement and a waiver of the 15' height limitation to allow the proposed garage height of 24'. The proposed garage, to be used for storage, will be built directly in front of the existing garage. At this time, Mr. Haddad showed a rendering of the proposed garage to Board Members.

Regarding the variance request denial in 2007, Mr. Gonzalez clarified that there were no economic or topographic findings to warrant a variance. He asked Staff what the thought process of the Board was at that time.

Mr. Hoffman responded the criteria for a variance is different from the criteria for a special exception. He reiterated the case before the Board today is a request for a Special Exception B (Two or more Non-conforming Lots).

Mr. Lyle noted that his garage is a two-story, double car garage. Mr. Haddad is proposing to build a garage that is visually and architecturally compatible with his home.

Mr. Barela asked if the proposed garage would be strictly a garage and not a dwelling.

Mr. Lyle clarified that Mr. Haddad intends to use the upper portion of the garage as storage area.

Furthermore, Mr. Hoffman clarified the Special Exception request before the Board is to modify the side setback. The application does not include a request to modify the height restriction. Should the applicant want to request a modification to the height restriction this would require a separate application request.

Mr. Lyle responded that Mr. Haddad understood the ZBA, Special Exception B request would cover both the side setback and height restriction modifications. Mr. Lyle explained that at a City Review Committee meeting, September 23rd, the City Review Committee approved both the side setback and height restriction modifications.

Mr. Hoffman clarified that the City Review Committee is a separate body. Their jurisdiction is limited to the Rim Road-University area under the NCO (Neighborhood Conservancy Overlay).

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EL PASO.IT'SALLGOOD.



Chairman Concha reiterated that the Zoning Board of Adjustment is authorized to approve or deny the side setback modification request. It was his understanding that the height restriction modification decision would be determined by a separate governmental body.

Mr. De La Cruz clarified that the City Review Committee does not have authority to waive height restriction requirements.

Vice-Chairman Garland asked Mr. De La Cruz to clarify what the height restriction stipulations are.

Mr. De La Cruz explained storage structures cannot exceed the 15' height limitations; however, there are exceptions for accessory dwelling units. Accessory dwelling units are permitted to be the same height as the two-story home; however, other criteria must also be met.

Mr. Bray wondered how then Mr. Lyle was permitted to have a two-story garage.

Mr. De La Cruz responded that Mr. Lyle's two-story garage has been in existence for so long that it was grandfathered in.

Mr. Lyle noted that Mr. Haddad's purposed new garage would not exceed the height of Mr. Haddad's home nor the height of Mr. Lyle's home.

Mr. Skarda wondered what the 15' height limitation was for.

Mr. De La Cruz responded the 15' height limitation only applies to accessory structures such as a storage unit or detached garage.

Mr. Lyle clarified the purposed garage would not be detached, this would be an addition to the existing garage which is a part of the home.

Mr. Gonzalez reiterated the proposed garage would be part of the house and a portion of the proposed garage will be for storage.

Mr. Cordova clarified that Staff has not reviewed the height restriction modification. He asked Mr. Lyle if Mr. Haddad would object to the Board postponing his request to the next ZBA meeting to allow Staff and Mr. Haddad to discuss the height restriction modification.

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Mr. De La Cruz noted Staff has not had an opportunity to determine the connectivity of the purposed garage to the main structure. Mr. Hoffman, a City Staff member from the City Review Committee and Mr. De La Cruz will meet and discuss the case. From that meeting, Staff will contact Mr. Haddad and provide the details of that meeting to him.

MOTION:

Motion made by Mr. Gonzalez, seconded by Vice-Chairman Garland AND UNANIMOUSLY CARRIED TO TABLE THE REQUEST UNTIL THE NEXT ZBA MEETING SO THAT STAFF CAN REVIEW THE ISSUES AT HAND.

ITEM 3:

PZBA13-00032 3604 McConnell Avenue Ezequiel Correa
Applicant requests a Special Exception under Section 2.16.050 K (Fifteen Years or More) in an R-4 (Residential) zone. This would allow a 682 sq. ft. accessory dwelling unit to encroach to within 4.2' of the side property line. The required side yard setback for accessory dwelling units is 10'. *An examination of aerial photography shows the structure to have existed since at least 1996.*

STAFF RECOMMENDATION IS FOR APPROVAL WITH A CONDITION: ACCEPTANCE OF STRUCTURAL DESIGNS BY THE BUILDING PERMITS AND INSPECTIONS DIVISION.

Mr. Andrew Salloum gave a presentation with Ms. Martha Macias providing sign language interpretation.

Chairman Concha asked if Staff had received any responses from the neighbors.

Mr. Roberto and Mrs. Celia Alvidrez, next door neighbors, were opposed to the request. Mrs. Alvidrez distributed photographs of her property, as well as, the applicant's property to the Board. She stated the accessory dwelling unit is closer to her property line than the 4.2' as stated and that the accessory dwelling unit overhang is closer to her property. She questioned how Staff had made the 15 years or more determination was made. She explained that as of last week, the Central Appraisal District listed the property as a vacant lot. She understood that the property taxes for the main structure, as well as, the accessory dwelling unit have not been paid.

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Additionally, Mrs. Alvidrez noted the accessory dwelling unit was constructed without the issuance of City permits. It was her belief the applicant was requesting the Special Exception as he was intending to build an addition to the accessory dwelling unit somehow. She explained that late August, 2013 construction on the addition to the accessory structure, without a permit, had begun. That project showed progress; however, Mrs. Alvidrez surmised that a City Inspector had halted further construction. She noted that approval of the request would affect her property values and eventual sale of her home.

Mr. Jorge A. Tapia, Global Construction Services, representing the property owner, and Mr. Ezequiel Correa, applicant, were present. Prior to giving testimony, Chairman Concha swore in Messrs. Tapia and Correa.

Mr. Tapia gave background information regarding the property. Mr. Tapia explained he was hired to help Mr. Correa to legalize the accessory structure. Mr. Tapia explained that the main structure previously operated as a church. Additionally, Mr. Tapia explained that Mr. Correa would not be adding to the main structure or the accessory dwelling structure. Mr. Tapia explained that the site plan provided shows the measurements for the setbacks. He questioned perhaps the rock wall was not constructed on the property line.

MOTION:

*Motion made by Vice-Chairman Garland **THAT THE BOARD LEGALIZE THE EXISTING STRUCTURES AND THAT THE APPLICANT CANNOT ADD ON TO THEM ACCORDING TO GETTING THE PROPER INSPECTIONS THAT THE STRUCTURE IS CONFORMING AND THAT THE PROPER FIRE RATINGS ARE MET.***

Mr. Skarda referred to the photographs provided by Mrs. Alvidrez. He noted that if the rock wall was constructed on the side property line, the accessory structure does not look like it is 4.2' from the side property line.

Several Board Members felt that the rock wall was built in the wrong place.

Vice-Chairman Garland noted, even if the rock wall was built in the wrong place, the Board has the authority to grant side yard setback exceptions to within 0' of the side property line as long as accessory structures meet the Fire Code.

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Mr. Skarda felt that the information submitted with the application was not accurate.

Mr. Tapia explained that the survey, submitted with the application, was the same survey submitted by the applicant for the purchase of the home. He explained that it would be another issue entirely if the rock wall was encroaching on the neighbor's property.

Vice-Chairman Garland clarified that, per the survey, the rock wall is located inside the applicant's property line.

Mr. Barela added that that would equal an extra foot; additionally, the yardstick is to the face of an electric panel which would equal eight inches, typically.

Mrs. Alvidrez stated that it was the same contractor that built both her home and the home next door.

Chairman Concha clarified that the survey, presented to the Board, is a legal document signed and sealed by a surveyor. He was unsure how Mrs. Alvidrez' photos would stand up against a legal document.

Vice-Chairman Garland explained to Mrs. Alvidrez that the rock wall, as shown on the survey, is within the applicant's property. He noted that the distance between the rock wall and structure is decreased further due to the location of the electric panel. Therefore, the wall of the existing accessory structure is at least three feet from the wall face to the wall of the structure, as shown in the survey.

Mrs. Alvidrez thought that another surveyor may come up with some other dimensions.

Vice-Chairman Garland clarified that the applicant is requesting to legalize the existing accessory structure.

Mrs. Alvidrez explained that both she and her husband were not present during the construction of the existing accessory structure.

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Mr. Skarda asked Staff if it was important or not if the measurements for the setback were 24" or 4'2". If the structure was fire-rated, the setback could be 0'.

Mr. Hoffman concurred and added as long as the overhang does not encroach into the neighbor's property.

Mr. Skarda continued therefore, the difference in the measurement would not matter, as long as the structure was fire-rated.

Mrs. Alvidrez asked would the applicant be permitted to add to the main structure or to the existing accessory structure.

Vice-Chairman Garland responded no, due to the condition he added to the motion, as previously stated.

Chairman Concha requested Vice-Chairman Garland repeat his motion.

MOTION RESTATED:

*Motion made by Vice-Chairman Garland **TO APPROVE THE STRUCTURE, AS IS, WITH THE CONDITION THAT THERE WAS NO FURTHER EXPANSION OF THE BUILDING AND THAT IT MET THE REQUIRED FIRE-RATING AND STRUCTURAL INSPECTIONS.***

FINAL MOTION:

*Motion made by Vice-Chairman Garland, seconded by Mr. Skarda **AND UNANIMOUSLY CARRIED TO APPROVE THE STRUCTURE, AS IS, WITH THE CONDITION THAT THERE WAS NO FURTHER EXPANSION OF THE BUILDING AND THAT IT MET THE REQUIRED FIRE-RATING AND STRUCTURAL INSPECTIONS.***

After the vote, Mr. Tapia stated his concerns regarding construction, adhering to the guidelines, City inspectors refereeing disputes between neighbors, and City inspectors inspecting not only inspecting a home but other construction within the same area/neighborhood.

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Prior to the meeting, Staff received revised Floor Plan Additions, Wall Section, and Exterior Elevation plans. Therefore, Staff revised their recommendation from denial to approval. Copies of the revised plans were distributed to Board Members.

ITEM 4:

PZBA13-00033 11256 Skipper Drive Rodolfo Jr. & Ana Ramirez
Applicants request a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 (Residential) zone. This would allow permit the construction of a 274 sq. ft. addition to extend to within 11' of the rear property line. The applicants are requesting a bed and bathroom addition to extend from the existing structure into the rear yard. The required rear yard setback in the R-3 zoning district is ~~20~~ 25'. The required cumulative setback is 50'.

~~STAFF RECOMMENDATION IS FOR DENIAL AS IT EXCEEDS THE PERMISSIBLE DIMENSIONS FOR ZBA APPROVAL.~~

**STAFF RECOMMENDATION IS FOR APPROVAL WITH A CONDITION:
ACCEPTANCE OF STRUCTURAL DESIGNS BY THE BUILDING
PERMITS AND INSPECTIONS DIVISION.**

Mr. Andrew Salloum gave a presentation with Ms. Martha Macias providing sign language interpretation.

Chairman Concha asked if Staff had received any responses from the neighbors.

Staff did not receive any phone calls, letters, or emails in favor of or opposition to the request.

Prior to giving testimony, Chairman Concha swore in Mr. Eric Madrigal, representative for the applicants, and Mrs. Irma Caudillo, neighbor residing behind the applicants.

Mr. Skarda noted that the Staff Report shows the required rear yard setback in the R-3 zoning district is 20'.

Mr. Hoffman explained the required rear yard setback in the R-3 zoning district is 25', not 20'.

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Vice-Chairman Garland asked if Staff had approved the structural design plans.

Mr. De La Cruz responded no; typically, applicants are not required to submit their plans at this time.

Mr. Madrigal noted he would submit the structural design plans after this meeting.

Chairman Concha informed Mr. Madrigal that submittal of the structural design plans would be included in the motion, as a condition.

Ms. Irma Caudillo, neighbor residing behind the applicants, wondered if the proposed addition would be too close to her backyard. Additionally, she wondered if the proposed construction would affect her rock wall as her property is lower than the applicants.

Chairman Concha clarified Ms. Caudillo's property sits lower than the applicants.

Per the structural design plans, Mr. De La Cruz responded there would be 11' from the addition to the rock wall.

Chairman Concha responded that the proposed construction should not affect her rock wall.

1st MOTION:

Motion made by Mr. Gonzalez TO APPROVE.

Per the presentation photos, Mr. Cordova wondered what the applicants had built on the side of the home and if it drained towards the neighbor.

Per the photo, Mr. De La Cruz clarified that the patio had been extended to 0' of the property line. He added that the patio extension was not reflected in the drawings as submitted, as it should have been.

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Mr. Madrigal explained that the applicants had constructed a covered, open on three sides, storage unit.

Mr. De La Cruz informed Mr. Madrigal that the applicants were not authorized to encroach into the side rear yard setback.

Mr. Madrigal stated he was unsure how long the storage unit had existed.

Mr. Cordova informed Mr. Madrigal that the applicants cannot have an existing encroachment into the side yard setback and request a Special Exception to encroach into the rear yard setback. The storage unit might have to be removed.

Mr. Madrigal concurred with Mr. Cordova. Mr. Madrigal wondered if the applicants might retain the storage unit; however, reduce it by three feet so that it would not encroach into the side yard setback.

Mr. De La Cruz explained if the Board approves the rear yard setback encroachment then the sides of the home must remain clear of any obstruction(s).

Mr. Madrigal stated then he would recommend the applicants remove the storage unit.

Chairman Concha clarified removal of the storage unit would be a condition of the approval.

At this time, Mr. Gonzalez withdrew his motion.

2nd MOTION:

Motion made by Mr. Gonzalez, seconded by Vice-Chairman Garland AND UNANIMOUSLY CARRIED TO APPROVED BASED ON THE CONDITION THAT THE APPLICANTS REMOVE THE SIDE ENCROACHMENT TO THE REQUIRED FIVE FOOT SETBACK IN ORDER TO BE COMPLIANT WITH THE REAR YARD SETBACK AND THE ACCEPTANCE OF THE STRUCTURAL DESIGNS BY THE BUILDING PERMITS & INSPECTIONS DIVISION.

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Other Business

5. Approval of Minutes: September 23, 2013

MOTION:

Motion made by Mr. Skarda, seconded by Mr. Bray AND UNANIMOUSLY CARRIED TO APPROVE THE SEPTEMBER 23, 2013 MINUTES.

ABSTAIN: Ms. Livingston

MOTION:

Motion made by Mr. Bray, seconded by Mr. Skarda AND UNANIMOUSLY CARRIED TO ADJOURN THE MEETING.

Alex Hoffman, Lead Planner

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